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13 VERIFY, INC., a California corporation

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

12 VERIFY, INC., a California  
13 corporation,

14 Plaintiff,

15 v.

16 VERIFY HOLDINGS, LLC dba Verify  
17 Corporation and Verify Brand, a  
18 Delaware limited liability company,

19 Defendant.

20 Case No. 8:15-cv-391

21 **COMPLAINT FOR:**

- 1 **TRADEMARK INFRINGEMENT**  
2 [15 U.S.C. § 1114(1)];
- 3 **UNFAIR COMPETITION &**  
4 **FALSE DESIGNATION OF**  
5 **ORIGIN** [15 U.S.C. § 1125(a)];
- 6 **CYBERSQUATTING** [15 U.S.C. §  
7 1125(d)];
- 8 **TRADEMARK INFRINGEMENT**  
9 [California Common Law];
- 10 **UNFAIR COMPETITION** [Cal.  
11 Bus. & Prof. Code §§ 17200 *et  
12 seq.*];
- 13 **UNFAIR COMPETITION**  
14 [California Common Law];
- 15 **CANCELLATION OF FEDERAL**  
16 **TRADEMARK REGISTRATION**  
17 [15 U.S.C. §§ 1064 and 1119]; and

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**DEMAND FOR JURY TRIAL**

1 Verify, Inc. (“Verify”) for its Complaint against Verify Holdings, LLC dba  
 2 Verify Corporation and Verify Brand (“Defendant”), alleges as follows:

3 **THE PARTIES**

4 1. Verify is a California corporation with its principal place of business at  
 5 2525 Main Street, Suite 100 Irvine, California 92614.  
 6 2. On information and belief, Defendant is a limited liability company  
 7 doing business as “Verify Corporation” and “Verify Brand,” with a principal place  
 8 of business at 7277 Boone Avenue North, Minneapolis, Minnesota 55428.

9 **NATURE AND STATUTORY BASIS OF THE ACTION**

10 3. This action seeks remedy for federal trademark infringement, unfair  
 11 competition and false designation of origin, and cybersquatting in violation of the  
 12 Lanham Act, 15 U.S.C. § 1051, *et seq.*; trademark infringement in violation of  
 13 California common law; and unfair competition under California statutory and  
 14 common law, and also seeks cancellation of a federal trademark registration under  
 15 the Lanham Act, 15 U.S.C. §§ 1064 and 1119.

16 **JURISDICTION AND VENUE**

17 4. This Court has personal jurisdiction over Defendant because, on  
 18 information and belief: (i) Defendant does business and/or actively solicits business  
 19 in California; (ii) Defendant has continuous and ongoing business contacts with  
 20 residents of California; (iii) Defendant has intentionally engaged in acts targeted at  
 21 California that has caused harm within California; and/or (iv) Defendant has  
 22 purposely availed itself of the privilege of conducting business in California. On  
 23 information and belief, Defendant actively solicits and conducts business in  
 24 California. For example, on information and belief, Defendant regularly attends  
 25 conferences and trade shows in California where Defendant networks and promotes  
 26 its supply chain management and related services under the infringing VERIFY  
 27 trademark, including without limitation, the following conferences: QCon San  
 28 Francisco in November 2014 and San Diego’s DMA Annual Conference in October

1 2014. Additionally, on information and belief, Defendant actively solicits and does  
2 business with California companies, including, for example, California  
3 pharmaceutical manufacturers, as evidenced by Defendant's December 4, 2012  
4 business presentation to the California Board of Pharmacy.

5       5.     This Court has subject-matter jurisdiction over this action pursuant to  
6 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a) as part of this action is based on the  
7 federal Lanham Act. This Court has supplemental jurisdiction over Verify's  
8 California statutory and common law claims pursuant to 28 U.S.C. § 1337(a) in that  
9 those claims arise out of a common nucleus of operative facts as the Lanham Act  
10 claims, and the Court's exercise of jurisdiction over the state law claims will  
11 promote judicial economy, convenience, and fairness to the parties.

12       6.     Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1331  
13 (b) and (c) in that, on information and belief, Defendant conducts business in this  
14 district, and a substantial part of the acts or omissions giving rise to the claims  
15 asserted herein occurred and/or had effects in this district.

## FACTUAL BACKGROUND

## A. Verify's History, Business and Valuable Intellectual Property

18        7. Verify is a well-known worldwide provider of supply chain  
19 performance management products and services, and it offers these products and  
20 services under its federally registered trademark **VERIFY**<sup>®</sup>.

21        8. Verify has commercially used the distinctive **VERIFY®** mark in  
22 connection with supply chain management products and services, as well as other  
23 related professional products and services, for over thirty (30) years, since at least  
24 1983 (the “Mark”).

25        9.      The **VERIFY**<sup>®</sup> mark is strong and distinctive when used in connection  
26 with supply chain management products and services. The Mark uniquely  
27 distinguishes Verify's goods and services from those offered by its competitors.

1       10. As a company that depends upon both the quality of its products and  
 2 services, and the reliability of its brand, Verify has spent substantial sums securing  
 3 and protecting its intellectual property interests in the **VERIFY**<sup>®</sup> mark.

4       11. Among other efforts, Verify has obtained two federal trademark  
 5 registrations to protect the value of its Mark in connection with supply chain  
 6 management services. *See* U.S. Reg. Nos. 4,209,905 and 4,221,570 (the  
 7 “**VERIFY**<sup>®</sup> Registrations”).

8       12. The **VERIFY**<sup>®</sup> Registrations constitute *prima facie* evidence that the  
 9 **VERIFY**<sup>®</sup> mark is valid and that Verify is entitled to the exclusive use of the Mark  
 10 in commerce throughout the United States on the goods and services listed on the  
 11 registrations, including without limitation, supply chain management services.

12       13. Since its first use of the mark over thirty years ago, Verify has spent  
 13 substantial sums to advertise and promote the **VERIFY**<sup>®</sup> mark. For instance, Verify  
 14 prominently displays the Mark and provides information about its popular  
 15 **VERIFY**<sup>®</sup> products and services on the Internet via its website located at  
 16 [www.vscnet.com](http://www.vscnet.com).

17       14. Over the years, Verify has expended substantial amounts of time, effort  
 18 and money to ensure that the relevant public associates the **VERIFY**<sup>®</sup> mark with its  
 19 goods and services. As a result of this time, effort and money invested, Verify and  
 20 the **VERIFY**<sup>®</sup> mark have achieved a reputation for excellence in the quality critical  
 21 and supply chain industries.

22       15. Verify enjoys substantial demand and goodwill for its products and  
 23 services marketed under the **VERIFY**<sup>®</sup> mark, and the **VERIFY**<sup>®</sup> mark has enjoyed  
 24 widespread success. Accordingly, the Mark is a significant asset of Verify’s  
 25 business.

26       16. By virtue of the substantial sales of products and services under the  
 27 **VERIFY**<sup>®</sup> mark over the last thirty years, and relatedly, the sums spent to promote  
 28 the **VERIFY**<sup>®</sup> mark, the Mark has also acquired secondary meaning in the minds of

1 the relevant public. The relevant public has come to exclusively associate the  
 2 **VERIFY**<sup>®</sup> mark with supply chain management products and services that originate  
 3 from Verify.

4 **B. Defendant's Business and Unlawful Conduct**

5 17. On information and belief, Defendant is a competitor of Verify and  
 6 advertises, markets and sells supply chain management products and services under  
 7 a trademark that is identical to Verify's Mark, namely, **VERIFY** (the "Infringing  
 8 Mark").

9 18. On information and belief, Defendant began using the Infringing Mark  
 10 in connection with its products and services well after Verify's first use of the Mark  
 11 for competing products and services.

12 19. Defendant also purports to own several federal trademark applications  
 13 and registrations for the Infringing Mark. On information and belief, in September  
 14 2013, Defendant filed two federal applications for the Infringing Mark, including  
 15 Serial No. 86/075,794 for the trademark **VERIFY CORPORATION** and Serial  
 16 No. 86/075,785 for the trademark **VERIFY ENGAGE** (the "Infringing  
 17 Applications"). In addition, Defendant owns a federal trademark registration (Reg.  
 18 No. 4,130,552) for the mark **VERIFY BRAND** (the "Infringing Registration").

19 20. On information and belief, Defendant also owns and/or operates several  
 20 domain names which make unauthorized use of the **VERIFY**<sup>®</sup> Mark, including  
 21 *verifycorporation.com*, *verifybrand.com*, and *verifyengage.com* (the "Infringing  
 22 Domain Names"). The Infringing Domain Names were registered by or on behalf of  
 23 Defendant on or around September 2013, October 2003, and May 2013,  
 24 respectively, and, again, well after Verify's first use of the **VERIFY**<sup>®</sup> mark. On  
 25 information and belief, Defendant has control of the Infringing Domain Names,  
 26 including the ability to transfer the domain names, and Defendant is actively using  
 27 the Infringing Domain Names in connection with its websites to promote the  
 28 infringing **VERIFY** goods and services.

1       21. On information and belief, Defendant uses the Infringing Domain  
2 Names with an intent to trade on the goodwill of Verify's well-known **VERIFY**<sup>®</sup>  
3 mark, as Defendant's use of the Infringing Domain Names increases the likelihood  
4 that consumers who search on the Internet to find **VERIFY**<sup>®</sup> products and services  
5 will instead find Defendant's Infringing Domain Names, and thus, Defendant's  
6 competing supply chain management products and services.

7       22. On information and belief, Defendant advertises and promotes its  
8 competing **VERIFY** products and services through a variety of marketing channels  
9 that overlap with Verify's marketing channels, including without limitation on the  
10 Internet via Defendant's websites.

11       23. Defendant has never been authorized by Verify to use the **VERIFY**<sup>®</sup>  
12 mark or any variations thereof, including **VERIFY CORPORATION**, **VERIFY**  
13 **BRAND**, and **VERIFY ENGAGE**, and has never been granted authority to assert  
14 or suggest any affiliation with or endorsement by Verify. Verify has never  
15 cooperated with Defendant in any manner, and in particular, has never worked with  
16 Defendant in connection with supply chain management products and services.

17       24. On information and belief, Defendant willfully adopted the Infringing  
18 Mark with an intent to trade on the substantial goodwill and demand associated with  
19 Verify and its well-known **VERIFY**<sup>®</sup> mark. On information and belief, Defendant  
20 had knowledge of Verify's Mark when it chose an identical name for its competing  
21 supply chain management products and services.

22       25. On information and belief, as a result of Defendant's use of an identical  
23 mark for competing supply chain management products and services, consumers  
24 who encounter the Infringing Mark are likely to be confused as to the source of  
25 Defendant's products and services, or as to their connection to or affiliation with  
26 Verify and its similar products and services offered under the **VERIFY**<sup>®</sup> mark.

27       26. On November 11, 2014, Verify sent a letter to Defendant alerting  
28 Defendant of Verify's trademark rights, and of its violations of the Lanham Act as a

1 result of its adoption and use of the identical Infringing Mark. Verify demanded  
2 that Defendant immediately cease and desist from further use of the Infringing  
3 Mark, including by ceasing use of the Infringing Domain Names.

4 27. As of the filing of this Complaint, Defendant has not ceased use of the  
5 Infringing Mark, the Infringing Domain Names, nor has Defendant abandoned the  
6 Infringing Applications or Registration.

## **FIRST CLAIM FOR RELIEF**

## Trademark Infringement

[Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)]

10 || 28. Verify incorporates by reference the factual allegations set forth above.

11 29. Verify owns the federally registered **VERIFY**<sup>®</sup> mark. The **VERIFY**<sup>®</sup>  
12 mark is strong and distinctive and designates Verify as the source of all products and  
13 services advertised, marketed, sold or used in connection with the Mark.

14 30. Verify is the senior user of the **VERIFY**<sup>®</sup> mark as it began use of the  
15 Mark in interstate commerce prior to Defendant's first use of its confusing similar  
16 (i.e., identical) Infringing Mark.

17        31. On information and belief, Defendant was aware of the **VERIFY**<sup>®</sup>  
18 mark prior to adopting and/or using the Infringing Mark for its competing products  
19 and services. Thus, Defendant's unauthorized use of the Infringing Mark was and is  
20 knowing, intentional and willful.

21       32. On information and belief, through its use of the confusingly similar  
22 **VERIFY** mark, Defendant intended to, and did in fact, confuse and mislead  
23 consumers into believing that Verify somehow authorized, sponsored, approved,  
24 licensed or participated in Defendant's use of the Infringing Mark.

25       33. In fact, there is no formal connection or association between Verify and  
26 Defendant. Further, Defendant does not have authorization, license or permission  
27 from Verify to advertise, market or sell its products or services under the **VERIFY**  
28 mark, which is used on products and in connection with services that are identical

1 and/or substantially similar to the products and/or services with which Verify's  
2 Mark has come to be associated.

3       34. On information and belief, Defendant's use of the Infringing Mark will  
4 likely cause confusion as to the origin and authenticity of Defendant's products and  
5 services, and will likely cause others to believe that there is a relationship between  
6 Verify and Defendant.

7       35. As a direct and proximate result of Defendant's wrongful conduct,  
8 Verify has been and will continue to be damaged.

9       36. Defendant's actions thus constitute trademark infringement in violation  
10 of 15 U.S.C. § 1114(1).

11       37. Verify has no adequate remedy at law. Unless Defendant is  
12 preliminarily and permanently enjoined from committing the unlawful acts alleged  
13 herein, including the unauthorized use in commerce of the Infringing Mark, Verify  
14 will continue to suffer irreparable harm. Accordingly, Verify is entitled to  
15 injunctive relief pursuant to 15 U.S.C. § 1116 restraining Defendant, its officers,  
16 agents and employees, and all persons acting in concert with them, from engaging in  
17 any further such acts of trademark infringement in violation of the Lanham Act.

18       38. Pursuant to 15 U.S.C. § 1117(a), Verify is also entitled to recover  
19 damages it has sustained and will sustain as a result of Defendant's wrongful  
20 conduct, and the gains, profits and advantages that Defendant has obtained as a  
21 result of its wrongful conduct. At present, Verify is unable to ascertain the full  
22 extent of its damages, or the gains, profits and advantages that Defendant has  
23 obtained by reason of its wrongful conduct described herein.

24       39. Defendant's conduct was intentional and, Verify is therefore entitled to  
25 an award of treble damages against Defendant pursuant to 15 U.S.C. § 1117(a).

26       40. Defendant's willful acts make this an exceptional case under 15 U.S.C.  
27 § 1117(a), and thus, Verify is entitled to an award of attorneys' fees and costs.

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## SECOND CLAIM FOR RELIEF

## Unfair Competition and False Designation of Origin

[Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)]

41. Verify incorporates by reference the factual allegations set forth above.

42. Verify owns the federally registered **VERIFY**<sup>®</sup> mark. The **VERIFY**<sup>®</sup> mark is strong and distinctive and designates Verify as the source of all products and services advertised, marketed, sold or used in connection with the Mark.

43. Verify is the senior user of the **VERIFY®** mark as it began use of the Mark in interstate commerce prior to Defendant's first use of the Infringing Mark.

10 44. On information and belief, Defendant was aware of the **VERIFY**<sup>®</sup>  
11 mark prior to adopting and/or using the Infringing Mark for its competing products  
12 and services. Thus, Defendant's unauthorized use of the Infringing Mark was and is  
13 knowing, intentional and willful.

14 45. On information and belief, through its use of the confusingly similar  
15 **VERIFY** mark, Defendant intended to, and did in fact, confuse and mislead  
16 consumers into believing, and misrepresented and created the false impression that  
17 Verify somehow authorized, sponsored, approved, licensed or participated in  
18 Defendant's use of the confusingly similar Infringing Mark.

19       46. In fact, there is no formal connection or association between Verify and  
20 Defendant, nor has Verify authorized, licensed or given permission to Defendant to  
21 use the **VERIFY**<sup>®</sup> mark or Infringing Mark in any manner.

22       47. On information and belief, Defendant's use of the Infringing Mark will  
23 likely cause confusion as to the origin and authenticity of Defendant's products and  
24 services, and will likely cause others to believe that there is a relationship between  
25 Verify and Defendant.

26       48. As a direct and proximate result of Defendant's wrongful conduct,  
27 Verify has been and will continue to be damaged.

49. Defendant's actions thus constitute false designation of origin and unfair competition in violation of 15 U.S.C. § 1125(a).

50. Verify has no adequate remedy at law. Unless Defendant is preliminarily and permanently enjoined from committing the unlawful acts alleged herein, including the unauthorized use in commerce of the **VERIFY** mark, Verify will continue to suffer irreparable harm. Accordingly, Verify is entitled to injunctive relief pursuant to 15 U.S.C. § 1116 restraining Defendant, its officers, agents and employees, and all persons acting in concert with them, from engaging in any further such acts of trademark infringement in violation of the Lanham Act.

51. Pursuant to 15 U.S.C. § 1117(a), Verify is also entitled to recover damages it has sustained and will sustain as a result of Defendant's wrongful conduct, and the gains, profits and advantages that Defendant has obtained as a result of its wrongful conduct. At present, Verify is unable to ascertain the full extent of its damages, or the gains, profits and advantages that Defendant has obtained by reason of its wrongful conduct described herein.

52. Defendant's conduct was intentional and, Verify is therefore entitled to an award of treble damages against Defendant pursuant to 15 U.S.C. § 1117(a).

53. Defendant's willful acts make this an exceptional case under 15 U.S.C. § 1117(a), and thus, Verify is entitled to an award of attorneys' fees and costs.

## **THIRD CLAIM FOR RELIEF**

## Cybersquatting

[Section 43 of the Lanham Act, 15 U.S.C. § 1125(d)]

54. Verify incorporates by reference the factual allegations set forth above.

55. As alleged above, Defendant has registered the domain names

*verifycorporation.com, verifybrand.com, and verifyengage.com* without Verify's authorization and with a bad faith intent to profit from Verify's **VERIFY®** mark.

The domain names *verifycorporation.com*, *verifybrand.com*, and *verifyengage.com*

1 are confusingly similar to the **VERIFY**<sup>®</sup> mark and damage the distinctive quality of  
2 the **VERIFY**<sup>®</sup> mark.

3       56. Verify's **VERIFY**<sup>®</sup> mark was distinctive at the time Defendant  
4 registered the domain names and remains distinctive today.

5       57. On information and belief, Defendant registered the Infringing Domain  
6 Names with the knowledge that it was confusingly similar to Verify's **VERIFY**<sup>®</sup>  
7 mark. Defendant has continued to use and/or maintains the domain registrations for  
8 the Infringing Domain Names even after Verify sent Defendant a letter regarding  
9 Verify's senior trademark rights.

10       58. Defendant's adoption and use of domain names that are confusingly  
11 similar to Verify's Mark, notwithstanding its knowledge of Verify's rights, in order  
12 to promote and sell competing products and services, demonstrates Defendant's bad  
13 faith intent to profit from the **VERIFY**<sup>®</sup> mark.

14       59. As a direct and proximate result of Defendant's acts alleged herein,  
15 Verify has been and continues to be injured in its business and property, and has  
16 sustained and will continue to sustain substantial damage to its business, goodwill  
17 and reputation in an amount not presently known.

18       60. Verify is entitled to the maximum statutory damages, pursuant to 15  
19 U.S.C. § 1117(d), in the amount of \$100,000, for each act of Defendant's  
20 cybersquatting.

21       61. Verify has no adequate remedy at law. Unless Defendant is  
22 preliminarily and permanently enjoined from committing these unlawful acts as set  
23 forth above, and the Infringing Domain Names registered by Defendant are ordered  
24 transferred to Verify, Verify will continue to suffer irreparable harm. Verify is  
25 therefore entitled to injunctive relief against the continued use of the Infringing  
26 Domain Names.

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62. Verify is entitled to the transfer of Defendant's domain names  
2 *verifycorporation.com, verifybrand.com, and verifyengage.com* under 15 U.S.C. §  
3 1125(d)(1)(C).

## **FOURTH CLAIM FOR RELIEF**

## Trademark Infringement

## [California Common Law]

63. Verify incorporates by reference the factual allegations set forth above.

64. Verify has valid and protectable common law rights in the **VERIFY®** mark.

10 65. Verify is the senior user of the **VERIFY®** mark.

11       66. Defendant's use of the confusingly similar **VERIFY** mark in  
12 connection with competing products and services is likely to cause confusion as to  
13 the origin of Defendant's products and services, and/or as to Verify's association  
14 with them.

15        67. Defendant's actions alleged herein constitute common law  
16 infringement of the **VERIFY**® mark.

17       68. On information and belief, Defendant's infringement of Verify's rights  
18 is and has always been willful.

19        69. Defendant's wrongful acts have permitted and will continue to permit  
20 Defendant to receive substantial profits based upon the strength of Verify's  
21 reputation and the substantial goodwill built up in the **VERIFY**<sup>®</sup> mark.

22       70. As a result of Defendant's infringing actions, Verify has been and will  
23 continue to be irreparably harmed.

24       71. Verify has no adequate remedy at law. Unless Defendant is  
25 preliminarily and permanently enjoined from committing the unlawful acts  
26 described herein, including without limitation, use of the **VERIFY** mark, Verify  
27 will continue to suffer irreparable harm. Thus, Verify is entitled to an injunction  
28 restraining Defendant, its officers, agents and employees, and all persons acting in

1 concert with them, from engaging in any further such acts of trademark  
2 infringement in violation of California common law.

3 **FIFTH CLAIM FOR RELIEF**

4 **Unfair Competition**

5 **[Cal. Bus. & Prof. Code §§ 17200 *et seq.*]**

6 72. Verify incorporates by reference the factual allegations set forth above.

7 73. On information and belief, Defendant's unlawful conduct set forth  
8 herein has had a substantial effect on commerce, and constitutes unlawful, unfair,  
9 and fraudulent business practices in violation of Section 17200, *et seq.*, of the  
10 California Business and Professions Code.

11 74. On information and belief, Defendant willfully intended to trade on the  
12 strength, reputation and goodwill of the **VERIFY®** mark, to mislead the public with  
13 wrongful use of the Infringing Mark, and to cause injury to Verify.

14 75. As a direct and proximate result of Defendant's unlawful acts, Verify  
15 has suffered and will continue to suffer injury to its business, goodwill and property.

16 76. Verify has no adequate remedy at law. Unless Defendant is  
17 preliminarily and permanently enjoined from committing the unlawful acts  
18 described herein, Verify will continue to suffer irreparable harm. Verify is thus  
19 entitled, pursuant to California Business and Professions Code §§ 17203 and 17535,  
20 to an injunction restraining Defendant, its officers, agents and employees, and all  
21 persons acting in concert with them, from engaging in any further such acts of unfair  
22 competition, as well as to restitution and disgorgement of Defendant's profits.

23 **SIXTH CLAIM FOR RELIEF**

24 **Unfair Competition**

25 **[California Common Law]**

26 77. Verify incorporates by reference the factual allegations set forth above.

27 78. By engaging in the wrongful conduct described herein, Defendant  
28 willfully intended to trade on the strength and reputation of Verify and/or the

1 | **VERIFY®** mark, to cause injury to Verify, and to pass off its goods and services as  
2 | those of Verify.

3       79. Defendant's wrongful use of the Infringing Mark in connection with  
4 supply chain management services and related professional services is likely to  
5 cause confusion, mistake and deception as to the affiliation, connection and  
6 association of Defendant with Verify and/or as to the origin, sponsorship and  
7 approval of Defendant's products sold and services offered under the Infringing  
8 Mark.

9       80. As a direct and proximate result of Defendant's unlawful acts, Verify  
10 has suffered and will continue to suffer injury.

11        81. Verify has no adequate remedy at law. Unless Defendant is  
12 preliminarily and permanently enjoined from committing the unlawful acts  
13 described herein, Verify will continue to suffer irreparable harm. Thus, Verify is  
14 entitled to an injunction restraining Defendant, its officers, agents and employees,  
15 and all persons acting in concert with them, from engaging in any further such acts  
16 of unfair competition in violation of California common law.

17        82. As a result of Defendant's acts described herein, Defendant has been  
18 unjustly enriched at Verify's expense and Verify has suffered a competitive injury  
19 and damages in an amount to be proven at trial.

20        83. On information and belief, Defendant acted with oppression, fraud,  
21 malice and willfully intended to trade on the strength, reputation and goodwill  
22 associated with the **VERIFY**® mark, to mislead the purchasing public, and to cause  
23 injury to Verify; thus, Verify is entitled to punitive damages.

## SEVENTH CLAIM FOR RELIEF

## Cancellation of Federal Trademark Registration No. 4,130,552

[15 U.S.C. §§ 1064 and 1119]

27 84. Verify incorporates by reference the factual allegations set forth above.

85. Verify owns the federally registered **VERIFY®** mark. The **VERIFY®** mark is strong and distinctive and designates Verify as the source of all products and services advertised, marketed, sold or used in connection with the Mark.

86. Verify is the senior user of the **VERIFY®** mark as it began use of the Mark in interstate commerce prior to Defendant's first use of the Infringing Mark and colorable imitations thereto, including Defendant's VERIFY BRAND mark, which is the subject of federal trademark Registration No. 4,130,552.

8        87. As set forth above, Defendant's use of Infringing Mark, including use  
9 of the federally registered mark VERIFY BRAND creates a likelihood of confusion  
10 with the senior **VERIFY**<sup>®</sup> mark. As a result, Verify has been and continues to be  
11 harmed by Defendant's VERIFY BRAND trademark registration.

12        88. Accordingly, Defendant's U.S. Registration No. 4,130,552 for the  
13 VERIFY BRAND mark is subject to cancellation pursuant to 15 U.S.C. §§ 1064 and  
14 1119.

## PRAYER FOR RELIEF

16 WHEREFORE, Verify prays for judgment against Defendant as follows:

17       1.     That Defendant be held liable for federal trademark infringement,  
18     unfair competition and false designation of origin, and cybersquatting in violation of  
19     the Lanham Act, 15 U.S.C. §§ 1114, 1125(a), and 1125(d); trademark infringement  
20     and unfair competition under California common law; and unfair competition in  
21     violation of California Business & Professions Code §§ 17200 *et seq.*;

22        2. For preliminary and permanent injunctions enjoining Defendant, its  
23 agents, employees, representatives, partners, joint ventures, and/or anyone acting on  
24 behalf of, or in concert with Defendant from:

25                   A.     operating the websites located at *www.verifycorporation.com*,  
26 *www.verifybrand.com*, and *www.verifyengage.com*, or any colorable imitation  
27 thereof, or any domain name that is likely to confuse, mislead, or deceive  
28 purchasers, Verify's customers, or members of the public, that goods and/or services

1 manufactured, distributed, advertised, sold and/or offered for sale on that website  
2 originate from Verify, or that such goods and/or services have been sponsored,  
3 approved, or licensed by or associated with Verify or are in some way connected to  
4 or affiliated with Verify;

5 B. advertising, marketing or selling any products or services under  
6 the **VERIFY** mark, or any colorable imitation(s) of the **VERIFY®** mark, including  
7 any mark that incorporates the term “VERIFY” or any other phrase, term, or logo  
8 that is likely to cause confusion with Verify or its **VERIFY®** mark.

9 C. using in commerce or facilitating the use in commerce of the  
10 **VERIFY** mark, or any other phrase, term, mark, trade name, logo or design that  
11 falsely represents that, or is likely to confuse, mislead, or deceive purchasers,  
12 Verify’s customers, or members of the public to believe that products and/or  
13 services advertised, marketed, sold and/or offered for sale by Defendant originate  
14 from Verify, or that such goods have been sponsored, approved, or licensed by or  
15 associated with Verify, or are in some way connected to or affiliated with Verify,  
16 including without limitation the following marks: **VERIFY CORPORATION**,  
17 **VERIFY BRAND**, and **VERIFY ENGAGE**;

18 D. doing or allowing any act or thing which is likely to injure  
19 Verify’s business reputation or goodwill;

20 E. engaging in any acts of federal, state or common law trademark  
21 infringement, false designation of origin, unfair competition, or cybersquatting that  
22 would damage or injure Verify; and

23 F. participating or assisting in any of the above activities.

24 3. For an order cancelling Defendant’s federal trademark applications  
25 Serial Nos. 86/075,794 (VERIFY CORPORATION) and 86/075,785 (VERIFY  
26 ENGAGE), and federal Registration No. 4,130,552 (VERIFY BRAND) for the  
27 Infringing Mark;

1       4. That Defendant and Defendant's officers, employees, agents, servants,  
2 attorneys, and representatives, and all other persons, firms or corporations in active  
3 concert or participation with them be required to transfer to Verify the registration  
4 for the domain names *verifycorporation.com*; *verifybrand.com*; and  
5 *verifyengage.com*, and any other domain name which incorporates the term  
6 "Verify."

7       5. That Defendant, pursuant to 15 U.S.C. § 1116(a), be required to file  
8 with the Court and to serve on Verify within thirty (30) days after service of an  
9 injunction order as requested herein, a report in writing under oath setting forth in  
10 detail the manner and form in which she has complied with the Court's order.

11       6. That an accounting be ordered of all of the profits realized by  
12 Defendant, or others acting in concert or participation with its, from Defendant's  
13 unauthorized use and infringement of the **VERIFY®** mark.

14       7. That Defendant be required to account for and pay Verify all gains,  
15 profits, and advantages derived from its acts of infringement and other unlawful  
16 conduct, as alleged herein.

17       8. That all gains, profits and advantages derived by Defendant from its  
18 acts of infringement and other unlawful conduct alleged herein be deemed to be in  
19 constructive trust for the benefit of Verify.

20       9. That judgment be entered against Defendant for Verify's actual  
21 damages as a result of Defendant's acts of infringement and other unlawful conduct  
22 alleged herein, and for any additional profits attributable to Defendant's wrongful  
23 conduct, according to proof.

24       10. That Defendant's unlawful conduct as alleged herein be deemed a  
25 willful violation of Verify's intellectual property rights.

26       11. That the Court declare this an exceptional case.

27       12. That Verify's actual damages be trebled pursuant to 15 U.S.C. §  
28 1117(a).

13. That Verify be awarded maximum statutory damages for violations of the Anti-Cybersquatting provisions of the Lanham Act in an amount not less than \$100,000 for each act of cybersquatting pursuant to 15 U.S.C. § 1117(d).

14. That Verify recover its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

15. That Verify be awarded punitive and exemplary damages pursuant to California common law.

16. That Verify recover the costs of this suit.

9       17. That Verify be granted pre-judgment and post-judgment interest on the  
10 damages caused by Defendant.

11        18. That Verify be granted such other and further relief as the Court deems  
12 just and proper.

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15 | Dated: March 11, 2015

**SHEPPARD, MULLIN, RICHTER & HAMPTON  
LLP**

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By /s/ Carlo F. Van den Bosch  
CARLO F. VAN DEN BOSCH

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Attorneys for Plaintiff  
VERIFY, INC.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Verify hereby demands a jury trial on all issues triable as of right by a jury.

Dated: March 11, 2015

Respectfully submitted,

**SHEPPARD, MULLIN, RICHTER & HAMPTON  
LLP**

By \_\_\_\_\_ /s/ Carlo F. Van den Bosch  
CARLO F. VAN DEN BOSCH

Atorneys for Plaintiff,  
VERIFY, INC.